



0000117635

ORIGINAL

25 SP

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

2003 JAN 16 A 10:55

MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

JAN 16 2003

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY

ARIZONA CORPORATION COMMISSION

DOCKET NO. T-01051B-02-0871

Complainant.

v.

QWEST CORPORATION,

Respondent.

PROCEDURAL ORDER**BY THE COMMISSION:**

In Decision No. 65450 (December 12, 2002), the Arizona Corporation Commission ("Commission") issued a Complaint and Order to Show Cause in this proceeding against Qwest Corporation ("Qwest"). That Decision ordered Qwest to appear and show cause as to "(1) why its failure to implement the rates required by Decision No. 64922 is not unreasonable, (2) why its implementation of rates in the other states with pending 271 applications at the FCC ahead of Arizona is not unreasonable, and (3) why its failure to notify the Commission of the delay and seek relief from the Order is not unreasonable." Decision No. 65450 also directed Qwest to appear and show cause "(1) why it should not be held in contempt of a Commission Order and assessed fines for failure to implement the rates approved in Decision No. 64922 within a reasonable amount of time; and (2) why it should not be held in contempt of a Commission Order and assessed fines for deliberately delaying implementation of the wholesale rate changes in Arizona until it had implemented the wholesale rate changes in at least 9 other states in which it has 271 applications pending at the FCC; and (3) why it should not be held in contempt of the Commission for attempting to discourage parties from notifying the Commission of its failure to comply with Decision No. 64922." The Commission's Show Cause Order directed Qwest to file an Answer to the Complaint within ten days of the effective date of Decision No. 65450.

1 On December 23, 2002, Qwest filed its Answer to the Complaint and Order to Show Cause
2 ("Answer"). In its Answer, Qwest concedes that its communications with respect to the
3 implementation of the wholesale rate changes ordered in Decision No. 64992, which it calls the
4 "Phase IIA Decision¹," have been wholly inadequate. However, Qwest contends that its failure to
5 contact Staff and other affected parties regarding the delays in implementing the rate changes was not
6 intentional. Qwest also states that it completed the implementation of the Phase II rates by December
7 15, 2002, with the exception of the rates of five wireless carriers, including Qwest Wireless. Qwest
8 further claims that it has begun a full re-examination of its rate implementation procedures to ensure
9 the parity of Qwest's practices with those of other major incumbent local exchange providers, and
10 that it has undertaken a number of other remedial activities to resolve the issue of delays in
11 implementation of ordered rates. Qwest requests that Staff and the Commission consider the
12 Company's commitment and its remedial activities in evaluating the issues raised in the Complaint
13 and Order to Show Cause.

14 On December 30, 2002, AT&T Communications of the Mountain States, Inc. ("AT&T") filed
15 an Application to Intervene. AT&T states that it is directly and substantially affected by Qwest's
16 failure to implement the rates ordered in Decision No. 64922. No party objected to AT&T's
17 intervention.

18 IT IS THEREFORE ORDERED that this matter shall be scheduled for a Procedural
19 Conference on January 27, 2003, at 10:00 a.m., at the offices of the Commission. The purpose of the
20 conference will be to discuss potential hearing dates and other procedural issues.

21 ...

22 ...

23 ...

24 ...

25 ...

26

27 ¹ Qwest is presumably referring to Decision No. 64922 (June 12, 2002), the Phase II Order issued in Docket No. T-
28 00000A-00-0194 that determined the majority of Qwest's wholesale prices. The Phase IIA Order in that same Docket is
Decision No. 65451 (December 12, 2002), which is not the subject of the Commission's Complaint and Order to Show
Cause in Decision No. 65450.

IT IS FURTHER ORDERED that AT&T Communications of the Mountain States, Inc. is granted intervention in this proceeding.

DATED this 16th day of January, 2003.



DWIGHT D. NODES
ASSISTANT CHIEF ADMINISTRATIVE
LAW JUDGE

Copies of the foregoing mailed/delivered
this 16 day of January, 2003 to:

Jacqueline Manogian
Mountain Telecommunications, inc.
1430 W Broadway Road, Suite A200
Tempe, AZ 85282

Robert S. Kant
E. Jeffrey Walsh
GREENBERG TRAURIG, LLP
2375 East Camelback Road
Suite 700
Phoenix, AZ 85016

Mitchell F. Brecher
GREENBERG TRAURIG, LLP
800 Connecticut Ave., NW
Washington, DC 20006

Timothy Berg
FENNEMORE CRAIG
3003 N. Central Avenue, Suite 2600
Phoenix, Arizona 85012
Attorneys for Qwest Corporation

Thomas Dethlefs
U S WEST
1801 California Street, Suite 5100
Denver, Colorado 80202

Richard S. Wolters
Michel Singer Nelson
AT&T
1875 Lawrence Street, Room 1575
Denver, Colorado 80202-1847

Michael W. Patten
ROSHKA, HEYMAN & DEWULF
One Arizona Center
400 E. Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for Cox Arizona Telcom, Inc.,
e-spire™ Communications, and McLeodUSA
Telecommunications Services, Inc.
Michael Grant
GALLAGHER & KENNEDY
2575 E. Camelback Road
Phoenix, Arizona 85016-9225
Attorneys for Electric Lightwave, Inc.,
COVAD
Communications, Inc. and New Edge
Networks

Thomas H. Campbell
LEWIS & ROCA
40 N. Central Avenue
Phoenix, Arizona 85007
Attorneys for Rhythms Links, Inc. and
Time Warner Telecom of Arizona, LLC

Thomas F. Dixon, Jr.
MCI WorldCom
707 17th Street
Denver, Colorado 80202

1 Darren S. Weingard
2 Stephen H. Kukta
3 SPRINT COMMUNICATIONS CO.
4 1850 Gateway Drive, 7th Floor
5 San Mateo, California 94404-2467

6 Scott S. Wakefield
7 RUCO
8 2828 N. Central Avenue, Suite 1200
9 Phoenix, Arizona 85004

10 Raymond S. Heyman
11 Randall H. Warner
12 ROSHKA, HEYMAN & DeWULF
13 400 E. Van Buren Street Suite 800
14 Phoenix, Arizona 85004

15 Jeffrey W. Crockett
16 Jeffrey B. Guldner
17 SNELL & WILMER
18 One Arizona Center
19 Phoenix, Arizona 85004-2202

20 Mary E. Steele
21 DAVIS WRIGHT TREMAINE LLP
22 2600 Century Square
23 1501 Fourth Avenue
24 Seattle, Washington 98101-1688
25 Attorneys for AT&T Communications of the
26 Mountain States, Inc.

27 Marti Allbright
28 MPOWER COMMUNICATIONS
5711 S. Benton Circle
Littleton, Colorado 80123

Joyce B. Hundley
United States Dept of Justice
Antitrust Division
City Center Building
1401 H Street, NW, Suite 8000
Washington, DC 20530

Lyndon J. Godfrey
AT&T
111 W. Monroe, Suite 1201
Phoenix, Arizona 85003

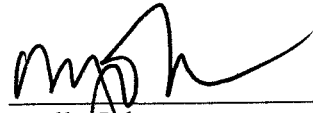
Mark Brown
QWEST CORPORATION
3033 North 3rd Street
Phoenix, AZ 85012

Christopher Kempley, Chief Counsel
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Ernest Johnson, Director
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC.
2627 N. Third Street, Suite Three
Phoenix, Arizona 85004-1103

By:


Molly Johnson
Secretary to Dwight D. Nodes